

**HB3393**



**100TH GENERAL ASSEMBLY**

**State of Illinois**

**2017 and 2018**

**HB3393**

by Rep. Emanuel Chris Welch

**SYNOPSIS AS INTRODUCED:**

35 ILCS 5/205

from Ch. 120, par. 2-205

Amends the Illinois Income Tax. Imposes a privilege tax at a rate of 20% on partnerships and S corporations engaged in the business of conducting investment management services, until such time as a federal law with an identical effect has been enacted. Provides for the determination of the tax due, defines "investment management services". Effective immediately, but this Act does not take effect at all unless the states of Connecticut, New Jersey, and New York enact laws having an effect identical to this Act.

LRB100 10498 HLH 20712 b

**A BILL FOR**

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by  
5 changing Section 205 as follows:

6 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

7 Sec. 205. Exempt organizations.

8 (a) Charitable, etc. organizations. The base income of an  
9 organization which is exempt from the federal income tax by  
10 reason of the Internal Revenue Code shall not be determined  
11 under section 203 of this Act, but shall be its unrelated  
12 business taxable income as determined under section 512 of the  
13 Internal Revenue Code, without any deduction for the tax  
14 imposed by this Act. The standard exemption provided by section  
15 204 of this Act shall not be allowed in determining the net  
16 income of an organization to which this subsection applies.

17 (b) Partnerships. A partnership as such shall not be  
18 subject to the tax imposed by subsection 201 (a) and (b) of  
19 this Act, but shall be subject to the replacement tax imposed  
20 by subsection 201 (c) and (d) of this Act and shall compute its  
21 base income as described in subsection (d) of Section 203 of  
22 this Act. For taxable years ending on or after December 31,  
23 2004, an investment partnership, as defined in Section

1 1501(a)(11.5) of this Act, shall not be subject to the tax  
2 imposed by subsections (c) and (d) of Section 201 of this Act.  
3 A partnership shall file such returns and other information at  
4 such time and in such manner as may be required under Article 5  
5 of this Act. The partners in a partnership shall be liable for  
6 the replacement tax imposed by subsection 201 (c) and (d) of  
7 this Act on such partnership, to the extent such tax is not  
8 paid by the partnership, as provided under the laws of Illinois  
9 governing the liability of partners for the obligations of a  
10 partnership. Persons carrying on business as partners shall be  
11 liable for the tax imposed by subsection 201 (a) and (b) of  
12 this Act only in their separate or individual capacities.

13 (c) Subchapter S corporations. A Subchapter S corporation  
14 shall not be subject to the tax imposed by subsection 201 (a)  
15 and (b) of this Act but shall be subject to the replacement tax  
16 imposed by subsection 201 (c) and (d) of this Act and shall  
17 file such returns and other information at such time and in  
18 such manner as may be required under Article 5 of this Act.

19 (c-5) Surcharge. Notwithstanding any provision of law to  
20 the contrary and in addition to any other tax imposed under  
21 this Act, a privilege tax is imposed on partnerships, including  
22 investment partnerships, and S corporations engaged in the  
23 business of conducting investment management services of 20%  
24 until such time as the United States Congress has passed and  
25 the President of the United States has signed legislation  
26 having an identical effect with this act applicable to such

1 income earned in all of the states and territories. Persons  
2 carrying on business as partners conducting investment  
3 management services shall be liable for the tax imposed by  
4 subsections 201 (a) and (b) of this Act in their separate or  
5 individual capacities in accordance with subsection 205 (b) of  
6 this Act.

7 For the purposes of this subsection (c-5), "Investment  
8 Management Services" means a business which is held by any  
9 person if such person provides, directly or indirectly, in the  
10 active conduct of a trade or business, a substantial quantity  
11 of any of the following services to the business:

12 (1) advising the business (partnership, S corporation  
13 or any business entity) as to the advisability of investing  
14 in, purchasing, or selling any specified asset;

15 (2) managing, acquiring, or disposing of any specified  
16 asset;

17 (3) arranging financing with respect to acquiring  
18 specified assets; or

19 (4) any activity in support of any service described in  
20 items (1) through (3) of this paragraph.

21 For the purposes of this definition, the term specified  
22 asset means securities (as defined in section 475(c)(2) of the  
23 Internal Revenue Code) real estate held for rental or  
24 investment, interest in partnerships, commodities (as defined  
25 in section 475(E)(2) of the Internal Revenue Code) or options  
26 or derivative contracts to any of these.

1       A partner or shareholder will not be deemed to hold an  
2       investment management services interest if at least 80% of the  
3       average fair market value of the specified assets of business  
4       during the taxable year consists of real estate.

5       (d) Combat zone, terrorist attack, and certain other  
6       deaths. An individual relieved from the federal income tax for  
7       any taxable year by reason of section 692 of the Internal  
8       Revenue Code shall not be subject to the tax imposed by this  
9       Act for such taxable year.

10       (e) Certain trusts. A common trust fund described in  
11       Section 584 of the Internal Revenue Code, and any other trust  
12       to the extent that the grantor is treated as the owner thereof  
13       under sections 671 through 678 of the Internal Revenue Code  
14       shall not be subject to the tax imposed by this Act.

15       (f) Certain business activities. A person not otherwise  
16       subject to the tax imposed by this Act shall not become subject  
17       to the tax imposed by this Act by reason of:

18               (1) that person's ownership of tangible personal  
19               property located at the premises of a printer in this State  
20               with which the person has contracted for printing, or

21               (2) activities of the person's employees or agents  
22               located solely at the premises of a printer and related to  
23               quality control, distribution, or printing services  
24               performed by a printer in the State with which the person  
25               has contracted for printing.

26       (g) A nonprofit risk organization that holds a certificate

1 of authority under Article VIID of the Illinois Insurance Code  
2 is exempt from the tax imposed under this Act with respect to  
3 its activities or operations in furtherance of the powers  
4 conferred upon it under that Article VIID of the Illinois  
5 Insurance Code.

6 (Source: P.A. 97-507, eff. 8-23-11.)

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law.